



**Town of Arlington
Zoning Board of Appeals**

Meeting Minutes
Tuesday, April 26 , 2016
7:45 PM

Present: Pamela Heidell, Chair , Roger DuPont, Walter Fey, Christian Klein, and Suzanne Spinney
Also Present: Patrick Quinn and Joseph Moen

1. Docket #3499 85 Robbins Road

The Petitioner Stuart J. Landucci applied for a Special Permit under Article 9, Nonconforming Uses, Structures and Lots of the Zoning Bylaw for the Town of Arlington, seeking permission to construct a single family residential dwelling on a lot where there had been a pre-existing residential building. The lot is located in an R-1 zoning district and is 4,725 square feet. A pre-existing residential dwelling was built in the late 1890s and was legally non-conforming with respect to lot size, frontage, and side yard setback, which are less than the current By-law's dimensional requirements. Arlington Inspectional Services issued a Building Permit for an as-of-right for renovation to the pre-existing residential structure. In its Special Permit application, the Applicant stated that the contractor had intended to renovate the pre-existing structure by taking the physical characteristics of the building down to 50% of its size, but during construction it became necessary to take the pre-existing structure all the way down because of the unsafe condition of the structure when taken down to 50%. The removal of the structure down to the foundation was beyond the scope of the Building Permit issued by Inspectional Services. Inspectional Services ordered work to cease and issued financial penalties for non-compliance. The Building Inspector determined that an application for Special Permit should be heard by the Zoning Board of Appeals. It is the position of the Board that the prior legal nonconforming status of the property remains even though the pre-existing building being taken down to its foundation. Under MGL Chapter 40A [Zoning,] Section 6, a special permit granting authority has the right to exercise jurisdiction over prior non-conforming lots. The broad jurisdiction of Chapter 40A is considered in concert with the Arlington Zoning By-law and specifically, Section 9.02 D, Extension and Alteration of a non-conforming structure and Section 9.09, Unsafe Structures. The Plans submitted indicated that the existing front yard depth is conforming at 25 feet and would remain 25 feet, the existing rear yard depth is conforming at 32.58 feet and would be reduced to 25.58 but would remain conforming, the existing right yard depth is conforming at 11.83 feet and would remain 11.83 feet,

and the existing left side yard width is legally nonconforming at 8.33 feet and would not be decreased. The lot size is 4,725 square feet and frontage is 52.6 feet: both are legally non-conforming. The Plans indicate that within the footprint of the pre-existing structure, a second story with dormers would be added and the garage would be expanded. A two-story rear addition would be added, and the addition would be within the required setbacks of the current zoning Bylaw. The proposed alteration would increase the existing gross floor area from 1,404 square feet to 2,814 square feet; of this 744 square feet are outside the foundation of the pre-existing building. The Board found that the extension of the structure to the rear of the lot would not be substantially more detrimental to the neighborhood than the existing conforming structure, and would be in harmony with other structures in the neighborhood. An abutter spoke in favor of the project noting concern with the present status of the property, and another abutter indicated her only concern was that the height of the new structure not impede the performance of her solar cells on the roof. A third abutter requested that the unsafe condition of the lot be corrected immediately. At the close of the hearing the board unanimously approved their request for a special permit with special conditions.

SO VOTED: 5-0

2. Docket #3501 84 Wright Street

The Petitioners, David and Claire Johnson, applied for a Special Permit under Section 6.08 (Large Additions in Residential Districts), of the Zoning Bylaw for the Town of Arlington, seeking permission to construct an addition to a family dwelling located at 84 Wright Street. The property is located in an R-1 zoning district and the lot upon which the building is located is 8,000 square feet. Robert Anctil, attorney for the Petitioners, and Claire Johnson appeared before the Board and described their proposal to add a two story addition (with basement) to the rear of the house and rebuild the existing enclosed front porch, along with renovations to the existing structure. Mr. Anctil also distributed two pages of photographic images documenting existing conditions, a rendered plot plan comparing existing and proposed changes and several letters from neighbors supporting the project. Mr. Anctil noted that the applicants have received approval for the proposed work from the Conservation Commission due to proximity of the house to wetlands and marsh area. He also noted that the sewer easement shown under the house addition and servicing the lot behind the applicants' property will be relocated. The Board questioned the inclusion of 4 parking spaces on the application form as the existing parking is an existing, nonconforming use. Applicants noted that the driveway expansion was to allow parking off the grassy area at the street as there are no sidewalks. The Board noted that maintaining the existing parking was acceptable but that the existing parking area could not accommodate four parking spaces per the Arlington Zoning By-Law. The Applicant agreed that the intent was to maintain the two permanent parking spaces for the house. The front porch is an existing enclosed structure so the notation of "proposed addition" is not correct; the new four season porch shown on the plans will be built on the existing foundation so is permitted per the Arlington Zoning By-Law without a variance due to existing non conforming setbacks. The Plans submitted indicated that the existing front yard depth is non-conforming at 24.4 feet and would remain non-conforming at 24.5 feet; the existing left side yard width is non conforming at 8.4 feet and would remain at 8.4 feet for the

existing house, but the new addition will be set back to 11.3 feet thus conforming with the 10' setback requirement; the existing right side yard width is conforming at 48.8 feet and with the addition will remain conforming at 27.3 feet; and the existing rear yard depth is conforming at 35.7 feet with the addition will remain conforming at 21.8 feet. The existing parking area is non conforming with respect to front yard setback and will remain non-conforming but will be extended so that the parking area is somewhat less non-conforming. Other dimensional requirements - lot coverage, height, and usable open space - are currently conforming and will remain conforming. The proposed alterations would increase the existing gross floor area from 2,023 square feet to 3,778 square feet, thus the new addition exceeds both 50% of the existing GFA and 750 gross sq. ft. At the close of the hearing the board unanimously approved their request for a special permit with special conditions.

SO VOTED: 5-0

3. Docket #3502 42 Coolidge Road

The Petitioners, Melinda and Gareth Lerwill, applied for a Special Permit under Section 6.08 (Large Additions in Residential Districts), of the Zoning Bylaw for the Town of Arlington, seeking permission to construct an addition to a family dwelling located at 45 Coolidge Road. The property is located in an R-1 zoning district and the lot upon which the building is located is approximately 8,000 square feet. David Whitney, architect for the Petitioners, appeared before the Board and described their proposal to demolish the existing house to the first floor deck structure, demolish the mud room at the side, reconstruct a two story portion at the existing foundation and add a two story addition (with crawl) to the rear of the house and replace the demolished mudroom with an exterior landing and stairs. Demolition to the first floor deck is allowed as of right as the lot is conforming with respect to size. The Board questioned the actual extent of usable open space due to the slope at the rear of the lot. The initial application noted that the existing usable open space was 5,980 sf, or 75% of GFA; and that the resulting house would have 4,910 sf or 62% of GFA; in both cases exceeding the 30% minimum. The Board noted that usable open space cannot include areas with slope greater than 8% and asked the applicants to provide more topographic information with new calculations. At the May 10 hearing, Mr. Whitney noted that their calculations show that the average site grade is 21% so the existing usable open space is 0 sf, and the non-conformity would remain with the addition. the Board asked for more clarity about the height of the reconstructed house relative to average grade. The revised drawings discussed at the May 10 continuation hearing show that the height of the reconstructed house and addition is 30' 8 1/2" above average grade, which is conforming in the R1 district. The Drawings (and revised Drawings) submitted indicated that the existing front yard depth is non-conforming at 17.7 feet and would remain non-conforming at 17.7 feet; the existing left side yard width is non-conforming at 19.6 feet and would remain at 19.6 feet for the existing house (the left side yard abuts an unimproved right of way), the existing right side yard width is non-conforming at 4.0 feet but with the removal of the mudroom, the reconstructed house and extended wall at the addition will reduce the non-conformity to 8.1 feet; and the existing rear yard depth is conforming 99.8 feet with the addition will remain conforming at 80.1 feet. Other dimensional requirements - lot

coverage, landscaped open area, parking, and height (as clarified at the May 10 hearing) - are currently conforming and will remain conforming. The proposed alterations would increase the existing gross floor area from 1,631 square feet to 2,679 square feet, thus the new addition exceeds both 50% of the existing GFA and 750 gross sq. ft. At the close of the hearing the board unanimously approved their request for a special permit with special conditions.

SO VOTED: 5-0